

# The other Keystone fight: US landowners vs. Canada oil giant



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By: Adam Molon

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Daniel Acker | Bloomberg | Getty Images

Three sections of pipe sit on the ground during construction of the Gulf Coast Project pipeline in Atoka, Oklahoma, U.S., on Monday, March 11, 2013. The Gulf Coast Project, a 480-mile crude oil pipeline being constructed by TransCanada, is part of the Keystone Pipeline Project and will run from Cushing, Oklahoma to Nederland, Texas.

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TransCanada's proposed Keystone XL pipeline expansion would stretch over almost 1,700 miles, and many U.S. landowners along its route say they're fighting to get money due them for letting the Canadian oil giant ship crude through their property.

Dave Domina, an attorney in Omaha, Neb., said one landowner received an offer of \$100 for a half-mile-long easement.

"They were offended by it," Domina said of the property owner, who reportedly got the offer about two years ago, when negotiations for Keystone XL easements were just beginning.

Now, he said, [TransCanada](#) is making easement offers of up to \$350,000.

(Read more: [Keystone ends OPEC: Pickens](#))

"I think Nebraskans are rightly pretty darn skeptical of this particular company," said Domina, who is representing landowners in a [Nebraska](#) case that challenges the constitutionality of a state eminent domain statute that TransCanada has used to obtain easements.

### ***More than 2,000 landowners***

It is just one case highlighting the tension that the Keystone XL pipeline has created between two powerful constituencies: a major energy company and landowners who believe their property rights are being violated.

TransCanada spokesman Grady Semmens declined to comment on specific negotiations with landowners, saying those talks are confidential. But the company said that it is dealing with more than 2,000 U.S. landowners along unopened segments of Keystone XL.

*(Read more: [Calls come for US to export oil](#))*

Semmens said the company has reached voluntary negotiated easements with all 205 affected landowners in [Montana](#), all but three of 294 in [South Dakota](#) and all but about 30 of some 1,000 along the nearly completed Gulf Coast extension of the pipeline, spanning from [Oklahoma](#) to Port Arthur, [Texas](#).

He did not provide specific numbers for successfully completed deals in Nebraska but said, "Our negotiations with landowners in Nebraska are going very well."

Jane Kleeb, founder of prominent watchdog group Bold Nebraska, doesn't agree.

She estimates that about 35 percent of the more than 500 Nebraska landowners affected by the Keystone XL route have reached easement agreements with TransCanada.

*(Read more: [Energy boom nets \\$1,200 per household: study](#))*

Part of the problem was the company's low initial offers, Kleeb said.

"It started out where a landowner would only be offered \$1,000 to \$3,000," she said. "Now they're being offered \$100,000 to \$200,000 to \$300,000. We don't have a lot of oil pipelines in our state, so I think TransCanada really thought they could get away with giving us as little money as possible."

Unfamiliarity with pipeline deals is not an issue for David Holland, a semiretired tax attorney who said he has signed more than 65 pipeline easements across the East Texas property that has been in his family since 1878. He is now in litigation to fight an involuntary Keystone XL easement.

"TransCanada wanted an easement across our property at a substantial discount to market value, and on incredible terms that I had never seen before," Holland said. Those terms included a 50-foot-wide easement with the right to install an unlimited number of pipelines in the future, he added.

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"We offered them an easement on the same terms that we've done with other companies, and they turned that down," Holland said. "Instead of negotiating, they basically filed an action to condemn the property, in which case they can take possession of [it] for as long as they can keep the case going."

For Holland, whose property is now traversed by a portion of the Keystone pipeline that is expected to begin operating this year, the case has expanded beyond business.

"Up until the time they showed up with sheriffs to enter our property without paying us, it was a condemnation case," he said. "After that, it became a civil rights case."

For Julia Trigg Crawford, whose property in Direct, Texas, was condemned and now contains part of the Keystone XL pipeline, business was never a consideration.

In 2008, she said, she refused TransCanada's offer of \$7,000 for a two-acre easement on her 650-acre farm and turned down a \$21,000 final offer in 2011. The easement was then condemned in county court and the pipeline installed.

"We never once said, 'What you offered is not enough money,' " said Trigg Crawford. "We always said, 'We're concerned about our land; we're concerned about our water, and we're concerned about our artifacts.' "

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Bought by her grandfather in 1948, the land is part of a historical burial ground founded by the Caddo, a Native American tribe. Trigg Crawford said that an archeological study was done on the land slated for easement and 145 artifacts were found.

"They don't know what they destroyed in the construction," she said of the pipeline installation. "There's no way they can say they found all the artifacts."

Trigg said TransCanada sent a \$10,000 compensation check to her county court, which she refuses to collect. She lost her appeal of the condemnation in Texas' Sixth District Court this year and is taking her case to the Texas Supreme Court.

Regardless of whether the land is a Native American burial ground, it should not have been condemned, Trigg Crawford said.

"This is not just about artifacts. It's about an American saying I have more of a right to my land than a Canadian company that's building a for-profit pipeline," she said. "It's really about property rights."

—By Adam Molon, *CNBC.com*.